

REMARKS/ARGUMENTS

Reconsideration and allowance are respectfully requested. By this Amendment, Claims 1, 11, 16, 19, 22, 32, 38, 44, and 47 have been amended. Claims 15 and 33 have been cancelled. Claims 1, 11, 22, and 32 are independent. Claims 1, 3-14, 16-29, 31, 32, and 34-47 are pending.

I. Claim Rejections – 35 U.S.C. § 112

The Examiner rejected Claims 44 and 47 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Applicants have amended these claims as described below.

A. Claim 44

Claim 44 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Specifically, the Examiner stated that Claim 44 recites the limitations of “the flange” and “the surface of the structure” for which there is insufficient antecedent basis in the claim.

Claim 44 has been amended to depend from Claim 1. Claim 1 recites both “a structure having a surface” and “a flange.” Therefore, amended Claim 44 has antecedent basis for both “the flange” and “the surface of the structure.”

In light of the above, Applicants respectfully request withdrawal of the rejection of Claim 44 under 35 U.S.C. § 112.

B. Claim 47

Claim 47 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Specifically, the Examiner stated that Claim 47 recites the limitation of “the flange” for which there is insufficient antecedent basis in the claim.

Claim 47 has been amended to depend from Claim 22. Claim 22 recites “a flange.” Therefore, amended Claim 47 has antecedent basis for “the flange.”

In light of the above, Applicants respectfully request withdrawal of the rejection of Claim 47 under 35 U.S.C. § 112.

II. Claim Rejections – 35 U.S.C. § 102

The Examiner rejected Claims 1, 3-4, 7-10, 22-28, 31, 42, and 45 under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 6,095,671 issued to Hutain (hereinafter “Hutain”). Applicants have amended independent Claims 1 and 22 to more precisely describe the claimed embodiments and respectfully request withdrawal of the rejections.

A. Independent Claim 1

Amended Claim 1 specifies “a fan positioned to draw air from an area to be ventilated into and through the first aperture of the lamp housing, around the lamp, and through the second aperture of the lamp housing, the second aperture positioned to direct air away from the area to be ventilated.”

As stated in Applicants’ specification, “the fan 104 can be driven by the motor 118 to draw air from a room, area or space to be ventilated into the lighting and ventilating apparatus ventilation inlet 110 (which can be located adjacent the first aperture 122 of the main housing 102 and/or the first aperture 138 of the lamp housing 106), through the lamp housing 106, around an exterior surface of the lamp 108, into and through the second aperture 140 of the lamp housing 106, through the main housing 102, through the second aperture 124 of the main housing 106, and out the ventilation outlet 112 to a position outside of the room, area or space to be ventilated.” Page 10, lines 15-22.

In addition, as shown in Fig. 2 of the application, and discussed above, air is drawn around the lamp 108 before it enters the fan 104 and is exhausted out the ventilation outlet 112.

Hutain discloses an apparatus for actively cooling a light. Hutain describes the flow of air as follows: “As shown in FIG. 2A, fan 182 is mounted so as to draw ambient atmosphere or air from room 2, through vents 150a-150c, and into and through space 170. Fan 182 exhausts the

air toward the lamp socket 172 and over lamp 174. Warmed exhaust air exits trim 120 through gaps 184, which are located between the perimeter of the lamp 174 and hole 145 of trim ring 126. Thus, in this configuration, **the fan draws ambient air from the room, blows the air through an inner trim housing, and exhausts the warmed air through the lamp aperture.** Importantly, the exhaust air is warmed only after exiting fan 182.” *See Hutain*, col. 7, line 66 to col. 8, line 9, Fig. 2A. In *Hutain*, air is therefore drawn from the room, through the fan, and exhausted back into the room.

Hutain further states that an advantage of his invention is that “[t]he airflow path is through the fan first, before being heated by the lamp.” *Id.* at col. 14, line 45-46. *Hutain* goes on to contrast his invention with another, stating, “[i]n contrast, in Spearman et al., the air is drawn past the lamp and thereby heated before it goes through the fan.” *Id.* at col. 14, line 447-48.

The apparatus of *Hutain* does not “draw air from an area to be ventilated [and] … direct air away from the area to be ventilated,” as required in amended Claim 1. The apparatus of *Hutain* further does not “**draw air** from an area to be ventilated into and through the first aperture of the lamp housing, **around the lamp**, and through the second aperture of the lamp housing.” In fact, the apparatus of *Hutain* does not perform any ventilation function; it simply pushes cool air around the lamp.

Accordingly, *Hutain* does not disclose “a fan positioned to draw air from an area to be ventilated into and through the first aperture of the lamp housing, around the lamp, and through the second aperture of the lamp housing, the second aperture positioned to direct air away from the area to be ventilated,” as required by amended Claim 1. For at least the above reasons, independent Claim 1 and dependent Claims 3-10 and 42-44 are allowable.

B. Dependent Claims 3-4, 7-10, and 42

Claims 3-4, 7-10, and 42 depend from independent Claim 1 and are therefore allowable for the reasons set forth above with respect to Claim 1. Claims 3-4, 7-10, and 42 include additional patentable subject matter not specifically discussed herein.

C. Independent Claim 22

Amended Claim 22 specifies “a fan positioned to draw air from an area to be ventilated, into the lamp housing, around the lamp, and through the main housing to a position outside of the area to be ventilated.”

As discussed above with respect to Claim 1, Hutain discloses an apparatus designed to draw air from an area, use that air to cool a lamp, and direct that air back to substantially the same area from which it came.

Accordingly, Hutain does not disclose “a fan positioned to draw air from an area to be ventilated, into the lamp housing, around the lamp, and through the main housing to a position outside of the area to be ventilated,” as required by amended Claim 22. For at least the above reasons, independent Claim 22 and dependent Claims 23-29, 31, and 45-47 are allowable.

D. Dependent Claims 23-28, 31, and 45

Claims 23-28, 31, and 45 depend from independent Claim 22 and are therefore allowable for the reasons set forth above with respect to Claim 22. Claims 23-28, 31, and 45 include additional patentable subject matter not specifically discussed herein.

III. Claim Rejections – 35 U.S.C. § 103

The Examiner rejected Claims 5, 6, 29, 43, and 46 under U.S.C. § 103(a) as being unpatentable over Hutain; and Claims 11-21, 32-41, 44, and 47 under U.S.C. § 103(a) as being unpatentable over United States Patent No. 3,692,977 issued to Duhamel et al. (hereinafter “Duhamel”). Applicants have cancelled Claims 15 and 33. Applicants have amended independent Claims 11 and 32 and dependent Claims 16, 19, and 38 to more precisely describe the claimed embodiments and respectfully request withdrawal of the rejections.

A. Dependent Claims 5-6 and 43

Claims 5-6 and 43 depend from independent Claim 1 and are therefore allowable for the reasons set forth above with respect to Claim 1. Claims 5-6 and 43 include additional patentable subject matter not specifically discussed herein.

B. Independent Claim 11

Claim 11 specifies “substantially recessing the lamp housing inside the main housing and through the first aperture to define a recessed lamp housing portion and a protruding lamp housing portion positioned outside the main housing, wherein the recessed lamp housing portion is substantially larger than the protruding lamp housing portion.”

Duhamel discloses a heating and ventilating unit containing “an ornamental cover panel having two circular apertures slightly larger in diameter than the lamp faces, one opening for each infra-red lamp” and “a reflective metal cover panel for the ceiling installation of the unit, having circular apertures through which the infra-red lamp faces project.” *See Duhamel*, col. 1, lines 14-17 and 62-65. Duhamel also discloses a housing 10 and a cover plate 14, which is separate and attached to the casing by means of a spring 15. *Id.* at col. 4, lines 39-44.

If, as alleged by the Examiner, the cover plate 14 of Duhamel is the “lamp housing” of Claim 11 and the housing 10 of Duhamel is the “main housing” of Claim 11, then Duhamel does not meet the Claim 11 limitation “substantially recessing the lamp housing inside the main housing and through the aperture.” The reason is that the cover plate 14 [lamp housing] of Duhamel is positioned outside of the housing 10 [main housing] and not inside the housing 10, as required by Claim 11. Further, no portion of the cover plate 14 [lamp housing] of Duhamel is recessed through an aperture of the housing 10 [main housing] as required by amended Claim 11.

In addition, if, as alleged by the Examiner, the cover plate 14 of Duhamel is the “lamp housing” of Claim 11, then Duhamel does not meet the Claim 11 limitation “the recessed lamp housing portion is substantially larger than the protruding lamp housing portion.” The reason is that the cover plate 14 [lamp housing] does not have a recessed portion that is substantially larger than a protruding portion as required by amended Claim 11.

Accordingly, Duhamel does not disclose “substantially recessing the lamp housing inside the main housing and through the aperture to define a recessed lamp housing portion and a protruding lamp housing portion positioned outside the main housing, wherein the recessed lamp housing portion is substantially larger than the protruding lamp housing portion,” as required by

- Appl. No. 10/714,367
- Response dated January 3, 2006
- Reply to Office action of November 1, 2005

amended Claim 11. For at least the above reasons, independent Claim 11 and dependent Claims 12-21 are allowable.

C. Dependent Claims 12-21 and 44

Claim 15 has been cancelled. Claims 12-14, 16-21, and 44 depend from independent Claim 11 and are therefore allowable for the reasons set forth above with respect to Claim 11. Claims 12-14, 16-21, and 44 include additional patentable subject matter not specifically discussed herein.

D. Dependent Claims 29 and 46

Claims 29 and 46 depend from independent Claim 1 and are therefore allowable for the reasons set forth above with respect to Claim 1. Claims 29 and 46 include additional patentable subject matter not specifically discussed herein.

E. Independent Claim 32

Claim 32 specifies “substantially recessing the lamp housing inside the main housing and through the first aperture to define a recessed lamp housing portion and a protruding lamp housing portion positioned outside the main housing, wherein the recessed lamp housing portion is substantially larger than the protruding lamp housing portion.”

As discussed above with respect to Claim 11, if, as alleged by the Examiner, the cover plate 14 of Duhamel is the “lamp housing” of Claim 32 and the housing 10 of Duhamel is the “main housing” of Claim 32, then Duhamel does not meet the Claim 32 limitation “substantially recessing the lamp housing inside the main housing and through the aperture” or the Claim 32 limitation “the recessed lamp housing portion is substantially larger than the protruding lamp housing portion.”

Accordingly, Duhamel does not disclose “substantially recessing the lamp housing inside the main housing and through the aperture to define a recessed lamp housing portion and a protruding lamp housing portion positioned outside the main housing, wherein the recessed lamp housing portion is substantially larger than the protruding lamp housing portion,” as required by

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amended Claim 32. For at least the above reasons, independent Claim 32 and dependent Claims 33-41 are allowable.

F. Dependent Claims 33- 41

Claim 33 has been cancelled. Claims 34-41 depend from independent Claim 32 and are therefore allowable for the reasons set forth above with respect to Claim 32. Claims 34-41 include additional patentable subject matter not specifically discussed herein.

G. Dependent Claim 47

Claim 47 depends from independent Claim 22 and is therefore allowable for the reasons set forth above with respect to Claim 22. Claim 47 includes additional patentable subject matter not specifically discussed herein.

IV. CONCLUSION

In light of the above, Applicants respectfully request reconsideration and allowance of pending Claims 1, 3-14, 16-29, 31, 32, and 34-47. The undersigned is available for telephone consultation at any time.

Respectfully submitted,



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